

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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CR-278-2024 (O&M)

Date of Decision: 18.03.2024.

Malkhan Singh

...Petitioner.

Versus

Chandan through his LRs

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Parminder Singh, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioners have challenged order dated 04.01.2024 (Annexure P-8), vide which learned trial Court has adjourned the matter for arguments on application under Order 41 Rule 27 CPC as well as on merits of appeal. Further, the petitioner seeks direction to learned trial Court to first decide the abovesaid application before adjudicating the main appeal on merits.

2. The brief facts relevant for the adjudication of the present revision petition are that the suit filed by the petitioner for specific performance of the agreement dated 09.05.2008, was dismissed by the trial Court vide judgment and decree dated 28.02.2017. The petitioner preferred an appeal against the said judgment and decree of the trial Court and also moved an application under Order 41 Rule 27 CPC before the Appellate

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Court. The said application was taken on record vide order dated 14.02.2022 and the case was adjourned for filing reply to the said application. Thereafter, reply to the said application was filed and then the case was fixed for arguments. On 17.08.2022, the arguments on the application for additional evidence were not advanced. Then on 21.10.2023, the case was fixed for arguments on the application as well as on merits of the appeal and again vide order dated 04.01.2024, the case was fixed for arguments on the application as well as on merits of the appeal.

3. Aggrieved against the said order, the present revision petition has been filed by the petitioner/ plaintiff.

4. Learned counsel for the petitioner has contended that the adjudication of the application for additional evidence is first required and in case the application is allowed then the petitioner would be granted the opportunity to lead the evidence. Even if the said application is not allowed, the right of the petitioner to challenge the said order independently would be frustrated. He has submitted that the trial Court may be directed to firstly decide the application for additional evidence before proceeding further with hearing of arguments in the appeal.

5. I have heard learned counsel for the petitioner and have gone through the relevant record.

6. The perusal of the impugned order reveals that the Appellate Court has adjourned the case for arguments on the application as well as on merits of appeal.

7. The main appeal is fixed for the arguments before the appellate

Court. As the application for additional evidence is to be taken alongwith the main appeal, so it is not likely to delay the disposal of the application for adducing of the additional evidence filed under Order 41 Rule 27 CPC. Moreover, no prejudice is likely to be caused to the petitioner if the merits of the said application are considered and appreciated at the time of hearing the arguments in the main appeal. If the Appellate Court would deem it proper while considering the merits of the aforesaid application then it could be allowed and accordingly the opportunity might be granted to the petitioner for leading of the additional evidence. So the right of the petitioner is not likely to be curtailed in any manner.

8. Thus, there being no illegality or infirmity in the impugned order no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

9. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

18.03.2024.

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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No